

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

EDWARD THOMPSON

Plaintiff,

v.

JAMES SKAGGS

Defendant.

Case No. 2:22-cv-682

Judge James L. Graham

Magistrate Judge Peter B. Silvain, Jr.

ORDER

This matter is before the Court for consideration of the May 11, 2022, Report and Recommendation of Magistrate Judge Silvain to whom this case was referred pursuant to 28 U.S.C. § 636(b). (ECF No. 6.) Having performed an initial screen of Plaintiff's Complaint (ECF No. 1-1) pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e)(2), Magistrate Judge Silvain recommended that Plaintiff be permitted to proceed at this time with his excessive force claim against Defendant James Skaggs in his individual capacity. (*Id.* at 80.) Magistrate Judge Silvain further recommended that Plaintiff's remaining claims—those against Skaggs in his official capacity, and those alleging a deprivation of personal property, unconstitutional conditions of confinement, the denial of medical care, and the deprivation of liberty—be dismissed for failure to state a claim upon which relief can be granted. (*Id.*) Magistrate Judge Silvain also recommended that should the Court adopt his recommendation, that the Court find that any appeal by Plaintiff would not be taken in good faith, and that Plaintiff may not proceed on appeal *in forma pauperis*. (*Id.*)

The Report and Recommendation specifically advised the parties that failure to object to the Report and Recommendation within fourteen (14) days “will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a

waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation.” (*Id.* at 81.) The deadline for filing objections to the Report and Recommendation has since expired, and no party has objected to the Report and Recommendation.

The Court agrees with Magistrate Judge Silvain’s Report and Recommendation (ECF No. 6), and it is hereby **ADOPTED**. Plaintiff is therefore permitted to **PROCEED** at this time on his excessive force claim against Skaggs in his individual capacity. Accordingly, Plaintiff’s remaining claims, including any claims against Skaggs in his official capacity, are hereby **DISMISSED**.

For the foregoing reasons, the Court certifies pursuant to 28 U.S.C. §1915(a)(3) that an appeal from this Order adopting the Report and Recommendation would not be taken in good faith, and the Court denies Plaintiff leave to appeal *in forma pauperis*.

IT IS SO ORDERED.

/s/ James L. Graham
JAMES L. GRAHAM
United States District Judge

DATE: June 2, 2022